

<b>REQUEST FOR COUNCIL ACTION</b> CITY OF SAN DIEGO				CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY)	
TO: CITY COUNCIL		FROM (ORIGINATING DEPARTMENT): Human Resources		DATE: 12/10/2012	
SUBJECT: Introduction of an Ordinance amending Chapter 2, Article 6, Division 9, of the San Diego Municipal Code, by amending sections 26.0901 through 26.0910, relating to the Human Relations Commission.					
PRIMARY CONTACT (NAME, PHONE): Scott Chadwick, 619/236-6313			SECONDARY CONTACT (NAME, PHONE): Danell Scarborough, 619/236-6573		
COMPLETE FOR ACCOUNTING PURPOSES					
FUND					
DEPT / FUNCTIONAL AREA					
ORG / COST CENTER					
OBJECT / GENERAL LEDGER ACCT					
JOB / WBS OR INTERNAL ORDER					
C.I.P./CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00
FUND					
DEPT / FUNCTIONAL AREA					
ORG / COST CENTER					
OBJECT / GENERAL LEDGER ACCT					
JOB / WBS OR INTERNAL ORDER					
C.I.P./CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00
COST SUMMARY (IF APPLICABLE):					
ROUTING AND APPROVALS					
CONTRIBUTORS/REVIEWERS:		APPROVING AUTHORITY		APPROVAL SIGNATURE	DATE SIGNED
Liaison Office		ORIG DEPT.		Chadwick, Scott	12/18/2012
		CFO			
		DEPUTY CHIEF			
		COO			
		CITY ATTORNEY			
		COUNCIL PRESIDENTS OFFICE			
PREPARATION OF:	<input type="checkbox"/> RESOLUTIONS	<input checked="" type="checkbox"/> ORDINANCE(S)	<input type="checkbox"/> AGREEMENT(S)	<input type="checkbox"/> DEED(S)	
Amend Chapter 2, Article 6, Division 9, of the San Diego Municipal Code, by amending sections 26.0901 through 26.0910.					
STAFF RECOMMENDATIONS: Introduce the ordinance.					

SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)	
COUNCIL DISTRICT(S):	ALL
COMMUNITY AREA(S):	N/A
ENVIRONMENTAL IMPACT:	This action is EOC exempt per the November 14, 2011 memo.
CITY CLERK INSTRUCTIONS:	Please send signed copy to Rimah Khouri as MS 56L.

**COUNCIL ACTION  
EXECUTIVE SUMMARY SHEET  
CITY OF SAN DIEGO**

DATE: 12/10/2012

ORIGINATING DEPARTMENT: Human Resources

SUBJECT: Introduction of an Ordinance amending Chapter 2, Article 6, Division 9, of the San Diego Municipal Code, by amending sections 26.0901 through 26.0910, relating to the Human Relations Commission.

COUNCIL DISTRICT(S): ALL

CONTACT/PHONE NUMBER: Scott Chadwick/619/236-6313

**DESCRIPTIVE SUMMARY OF ITEM:**

This item introduces an ordinance which provides language updates to comply with current applicable laws and updates procedures by amending Chapter 2, Article 6, Division 9, of the San Diego Municipal Code, by amending sections 26.0901 through 26.0910, relating to the Human Relations Commission. Specifically, this item adjusts the number of appointments for the Mayor and the newly established Council District (Council District 9) due to redistricting, changes term of the Chairperson, and other non-substantive changes.

**STAFF RECOMMENDATION:**

Introduce the ordinance.

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:**

This ordinance amendment increases from fifteen (15) to seventeen (17) the total number of Human Relations Commission members, increasing from eight (8) to nine (9) the number of appointments made from a list of up to three (3) nominations submitted by each Councilmember due to the City Council representation redistricting process resulting in the addition of one Council District, and increasing from seven (7) to eight (8) the number of appointments made directly by the Mayor to maintain a total odd number for vote counts.

This ordinance also updates the list of protected classes from discrimination to instead include that this ordinance covers all current federal and state protected class designations; updates the appointment timeframes; increases the Commission Chair's term limit from two (2) to three (3) years; consolidates sections regarding the Commission's annual reports to the City Council and clarifies their substance; and adds language of "without excuse" to describe a Commissioner's allowable number of missed meetings as the basis for automatic removal, rather than just missing meetings as previously required.

Some of the recommended amendments come from the current Human Relations Commission as reflected in the minutes from the 246th meeting held on October 17, 2012.

**FISCAL CONSIDERATIONS:**

None

**EQUAL OPPORTUNITY CONTRACTING INFORMATION:** This action is exempt per the November 14, 2011 memo regarding Projects Exempt from Equal Opportunity Contracting Program Review.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:  
O-17614 adopted on March 18, 1991

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:  
None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:  
None.

Chadwick, Scott  
Originating Department

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Deputy Chief/Chief Operating Officer

**MINUTES  
HUMAN RELATIONS COMMISSION  
WEDNESDAY, OCTOBER 17, 2012**

Chair Abrams called the 246th meeting of the City of San Diego Human Relations Commission (HRC) to order at 5:35 PM

**- WELCOME**

**Roll Call**

**Commissioners Present:** Bruce Abrams, Mary Alcock, Monica Bauer Federman, Gracia Molina de Pick, Mark Dillon, Mitz Lee, George Mitrovich, Joyce Singer Abrams, Lorena Slomanson, Joel Trambley, Patricia Washington

**Leave of Absence:** Tiffany Harrison is on an approved leave of absence.

**Not Present:** Shonee Henry, Gagandeep Kaur

**Staff:** Danell Scarborough, Executive Director; Pam Holmberg, Labor Relations

**Approval of Minutes**

A motion was made by Commissioner Washington to approve the September 19, 2012 minutes. The motion was seconded by Commissioner Trambley. The motion passed unanimously.

**Non-Agenda Public Comment**

Dr. Bill Oswald. Dr. Oswald addressed the Commission to encourage them to work with Supportive Parents Information Network (SPIN) and help create opportunities for low-income families. He feels that poverty is often blamed on the victim rather than looking at outside causes they struggle against. He believes Government on all levels needs to make better decisions to help struggling families.

Maria Aceves. Ms. Aceves is a community member who is fighting to give low-income families and children a voice. She would like the City to take low-income families into consideration in all actions. The City Council needs to stand up for these children.

Eileen Davis. Ms. Davis is a parent advocate and spoke about families in need. The majority of low income households are in their situation through fault that is not their own. She sees the same issues today that existed 70 years ago. These are non-partisan, non-generational issues. They are universal issues that affect the community as a whole.

Margie Larson. Ms. Larson is on the SPIN Board of Directors. She spoke of the hardships on low-income families, especially to the children. She encouraged the City decision makers to consider how their decisions affect low-income families.

Kelsey Young. Ms. Young is a representative of the San Diego Childrens' Choir. Participating in the choir is a great benefit to children, teaches them skills and gives them a creative outlet. The choir is open to all children in grades 1 – 5 and there is no cost to the

student. The choir in City Heights meets for one-hour a week after school on Thursday. She encouraged all that are eligible to participate.

Reverend Nancy Mitchell – Reverend Mitchell is a child advocacy minister. She encouraged the Commission to consider how the events of growing up low-income affect a person over their lifetime. Each cut to services can affect individuals in many ways.

## - **PRESENTATIONS AND DISCUSSION**

### **“Through the Eyes of Children: Lives In Poverty”**

#### **Children sharing their art work**

#### **Joni Halpern, Supportive Parents Information Network.**

After a brief introduction from Joni Halpern, eight low-income students told their stories. Each student told their compelling story on how the actions of the City affect their lives. They included increased fees for transit passes, reduced hours at City libraries, fee increases for public facilities such as pools, water rate increases, lack of sports equipment at the City parks, lack of classes in arts education, field trips or after school athletic programs, the price of admission to places such as the Zoo or Sea World that receive subsidies from the City, and Police harassment of students for loitering if they are late for school. Each small decision by the City can compound the troubles of their everyday life. For example, many schools use the internet for class assignments. In City Heights 35% of the households do not have internet access at home. The City Heights library, which offers free internet access, hours have been cut to 35 hours a week, limiting the time available for students. Also, with the large demand for internet you are limited to how much time you can use it. If the library is closed or your time limit prevents a student from turning in homework or taking a test it affects their grades and puts them further behind.

SPIN member Hilda Chen asked the Commission to take a leadership role to help preserve the dreams of children in poverty. Currently one-third of San Diegan’s live in economic hardship. She asked the Commission to work with SPIN to craft a request to the Mayor and City Counsel that would require them to consider the economic impacts of their decisions on low-income families.

The Commission thanked the students for their wonderful presentation and asked many questions of them and Joni Halpern. Ms. Halpern indicated that SPIN would like to form a working group with the Commission to craft their proposal to Council and to follow through on the concerns of the students. Commissioner Mitrovich made a motion that the Commission form the working group with the goals as stated by Ms. Halpern. The motion was seconded by Commissioner Bauer Federman and passed unanimously.

#### **Hillel Project for UCSD Campus**

#### **Michael Rabkin, Hillel of San Diego**

Hillel is a global network of Jewish college organizations. It has representation at all nine college campuses in San Diego County. Its goals are to create Jewish leaders for the 21<sup>st</sup> Century, inspire ethically engaged global citizens with Jewish values, foster a relationship with Israel, and promote the Jewish community. Hillel would like to build a 6475 sq foot

center next to the UCSD campus. They have been working since 1998 to develop a site on La Jolla Village Drive. There have been many battles with the neighborhood and Hillel has adapted their plans to what they feel is a facility that will suit their needs while fitting in well with the neighborhood. They plan to go forward with their plans for approval by City Council in early 2013. They brought their plans to the La Jolla CPA and it was not approved. The La Jolla CPA does not consider it a project of merit and does not accept it as a religious center. He believes La Jolla CPA has a bias against Hillel. They have also approached the La Jolla Shores PRC for approval but have not been put on the agenda yet. Mr. Rabkin asked the Commission to write a letter of support of their project to the Mayor and City Council. After questions and discussion Commissioner Washington made a motion that the Commission send a letter of support of Hillel's plan to the Mayor and City Council. The motion was seconded by Commissioner Bauer Federman. The motion passed unanimously. Commissioner Trambley and Executive Director Scarborough will work together to draft the letter.

### **Overview of Deferred action for Childhood Arrivals (DACA)**

**Commissioner Lorena Slomanson**

**This item will be discussed at the next meeting**

## **- ACTION AGENDA**

### **New Business**

1. Proposed changes to Municipal Code Article 6 Division 9; Human Relations Commission  
The proposed changes had been sent to the Commissioners prior to the meeting. There were no questions about the changes. Commissioner Alcock made a motion that the Commission accept the proposed draft changes for submittal to the City Attorney's office for finalization and Council approval. The motion was seconded by Commissioner Dillon and passed unanimously.
2. Proposed protocol for Human Relations Commission media and crisis response  
Commissioner Trambley discussed the proposed protocol for media and crisis response from the Human Relations Commission. The goal is to streamline the process to deliver press releases in a timely manner without compromising any of the rules of the Brown Act. Commissioner Alcock made a motion that the proposal be incorporated into the framework of the Commission. The motion was seconded by Commissioner Washington and passed unanimously.
3. Plans for HRC Annual Awards Events  
Executive Director Scarborough encouraged all of the Commissioners to review the packet of nominees that was distributed. There was a discussion of the awards and the nominees. Ms. Scarborough requested the Commissioners submit their votes to her via email by October 19 at 11:00 AM.

### **Old Business**

1. Update from HRC 2012 Priority Committees  
Education – Commissioner Mitz Lee, Committee Chair.  
Immigrant Rights – Vice Chair Mark Dillon, Committee Chair  
Access Issues – Commissioner Lorena Slomanson, Committee Chair  
Special Projects – Commissioner Mary Alcock, Committee Chair

Media and Communications – Joel Trambley, Committee Chair  
Outreach and Advocacy – Chair Bruce Abrams, Committee Chair

Due to time constraints the reports were skipped

- **INFORMATION AGENDA**

**Chair's Report**

1. Update Human Relations Commission Resolution on Proposition 34  
The Commission's resolution was distributed for review. It will be sent to the Mayor and Council on October 18.
2. ICWJ's Annual Voices for Justice Breakfast: Thursday, December 6, 2012, 7:30 – 9:30 AM.  
Chair Abrams has purchased a table for the breakfast and invited any member available to attend as his guest. He asked that those that can make it contact Executive Commissioner Scarborough

Chair Abrams announced that the NAACP is having their annual dinner, hosted by Shirley Webber, on October 20. He encouraged the Commissioners to attend if they were available.

**Commissioners' Report:**

There were no reports.

**Executive Director's Report:**

1. "Healing Our Community" – coordinating a Know Your Rights session for the City Heights Neighborhood Dialogue, October 29, 6 – 8 p.m.  
Executive Director Scarborough brought attention the flyers with information on this event and encouraged the Commissioners' participation
2. Regional Hate Crimes Coalition – Educational Forum for Faith Communities, Sunday, November 4, 2012, 3:30 – 5:30, Anchor Room, Marina Village  
Executive Director Scarborough encouraged the Commissioners' to participate in this event.

The meeting was adjourned at 7:45 p.m.



## Article 6: Board and Commissions

### Division 9: Human Relations Commission

*("Human Relations Commission"*  
*added 3-18-1991 by O-17614 N.S.)*

#### §26.0901 Findings

The population of the City of San Diego is composed of people of various racial, religious and ethnic groups. In this City, the practice of discrimination on the grounds of race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition, or place of birth, and the exploitation of prejudice related thereto adversely affects members of the above groups.

Such discriminatory practices are inimical to the public welfare and good order in that they: (1) impede social and economic progress for the entire citizenry by preventing members of the above groups from achieving full development of their individual potentialities and from contributing fully to the cultural and business life of the community; (2) constantly frustrate, degrade and embitter members of the above groups, thereby diminishing their initiative and interest in the community; and (3) tend to create intergroup hostilities and anti-social behavior.

The products of discrimination accumulate continuously, with the result that the social, economic and educational gaps between those suffering discrimination and the rest of the community constantly widen. As a result, mere prohibition of present and future discrimination, while essential, will not reduce the inequalities and disadvantages which a history of discrimination has produced. Accordingly, remedial action must be initiated, encouraged, and coordinated, particularly educational programs to bring groups together to close gaps.

Experiences of other urban centers throughout the nation have proven the need for and the effectiveness of commissions empowered to study community, race and human relations problems, to work with interested citizens to develop programs to ameliorate tensions and reduce cultural, social, and economic disadvantages and to encourage and coordinate implementation of such programs consistent with the needs and rights of members of all groups in the community.  
*("Findings" added 3-18-1991 by O-17614 N.S.)*

**§26.0902 Purpose and Intent**

It is the purpose and intent of this Division to create a Human Relations Commission for The City of San Diego which shall consult with and advise the Mayor, City Council, and City Manager on the rights of every inhabitant of The City of San Diego to equal economic, political and educational opportunity, to equal accommodations in all business establishments in the City and to equal service and protection by public agencies. The Commission shall give effect to such rights to eliminate prejudice and discrimination because of race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition or place of birth and shall advise the Mayor, City Council and the City Manager on methods to inform the inhabitants of The City of San Diego of developments in human relations. The Commission shall also provide expert advice and assistance to the Mayor, City Council and City Manager in order that all officers, agencies, boards, departments and employees of The City of San Diego may take ameliorative steps to enhance peace and good order, and provide equal opportunity for and good will toward all people. Further, the Commission may recommend use of mediation and/or conciliation processes to attempt to eliminate alleged unfair or unlawful discriminatory practices as defined herein.

*(“Purpose and Intent” added 3-18-1991 by O-17614 N.S.)*

**§26.0903 Scope**

- (a) This Division applies to all discriminatory practices and to resulting intergroup tensions specifically covered by the provisions of this Division occurring within the territorial limits of The City of San Diego or within any governmental agency or any other agency under the jurisdiction of The City of San Diego and, to the extent permitted by law, to activities outside the City which reasonably affect such practices and tensions within said territorial limits. Nothing in this Division, however, shall be interpreted or applied so as to create any power or duty in conflict with the preemptive effect of any federal or state law. Nor shall anything in this Division be implemented in a way that overlaps already existing federal or state programs; rather, federal or state programs shall be utilized, or supplemented when necessary, appropriate, and feasible, to give effect to this Division.

*(“Scope” added 3-18-1991 by O-17614 N.S.)*

**§26.0904 Definitions**

As used in this Division:

- (a) “Commission” is the Human Relations Commission.

- (b) “Conciliation” is a voluntary process in which a neutral third party serves as an intermediary between the conflicting parties. The parties may or may not meet directly.
- (c) “Discrimination” is the unlawful treatment of or distinction against a person based on the group class or category to which that person belongs rather than on individual merit. Those classes or groups protected by this Division are those defined in federal or state law and San Diego Municipal Code section 52.9601 et seq.
- (d) “Mediation” is a voluntary dispute resolution process in which the parties in conflict meet with a neutral third party in an attempt to resolve the conflict or dispute in a manner that is satisfactory to the parties in conflict.
- (e) “Reasonable cause” is a threshold standard for the Commission to initiate a conciliation or mediation process. The standard is met when the investigation of the alleged unfair or unlawful practice produces sufficient credible evidence that would cause a reasonable person of ordinary care and prudence to conclude that the unfair or unlawful practice occurred.
- (f) “Unfair” shall mean not fair or conforming to fundamental notions of justice, honesty, ethics or the like.
- (g) “Unlawful practice” shall mean any policy or practice which constitutes illegal discrimination as defined in federal, state or local laws.  
(“Definitions” added 3–18–1991 by O–17614 N.S.)

**§26.0905 Human Relations Commission Established**

- (a) There is hereby created a Human Relations Commission consisting of fifteen (15) members who shall serve without compensation. All members of the Commission shall be residents of the City of San Diego unless otherwise waived by the Council pursuant to Council Policy 000–13. All prospective members shall have demonstrated an expertise in human relations work and a commitment to fostering better human relations in The City of San Diego.
- (b) The Commissioners shall be appointed by the Mayor and confirmed by City Council, subject to the following procedure.
  - (1) The Mayor shall appoint seven (7) members;

- (2) The Mayor shall appoint the remaining eight (8) members, one each from a list of up to three (3) nominations submitted by each Councilmember.
  - (c) Of the initial fifteen (15) Commissioners appointed, eight (8) shall serve a term of four (4) years and seven (7) shall serve a term of two (2) years. Thereafter, members shall be appointed for a term of office of four (4) years, except that all vacancies occurring during a term shall be filled for the remainder of the unexpired term.
  - (d) Commissioners may serve a maximum of two (2) full four (4) year terms, for a maximum of eight (8) consecutive years, with a four (4) year interval between terms in accordance with Section 43 of the City Charter.
  - (e) The Commissioners shall elect a chair from among their members. The Chair shall serve at the pleasure of the members but for no longer than two (2) years.
  - (f) The Commissioners may be removed for cause by a vote of a majority of the members of the City Council.
  - (g) The position of Executive Director of the Commission is hereby established and shall be appointed by the City Manager. The Director shall be a management assistant to the City Manager. The City Manager may seek counsel and advice from the Commission's Chair about matters within the jurisdiction of the Commission.
  - (h) Subject to its unfettered legislative discretion, the Council will use good faith efforts to ensure that:
    - (1) Sufficient funds for an Executive Director and necessary staff are provided to assist the Commission in carrying out its duties and responsibilities; and
    - (2) The Commission reflects the cultural diversity of the community including ethnicity, gender, age, sexual orientation and disability.
- ("Human Relations Commission Established" added 3-18-1991 by O-17614 N.S.)*

**§26.0906 Powers and Duties**

The Commission shall:

- (a) Conduct programs designed to bring groups together to close gaps resulting from past discriminatory practices and to address pro-actively current or ongoing intergroup tensions.
- (b) Mediate disagreements among individuals, groups and organizations which result from discriminatory practices within the scope of this Division.
- (c) Process complaints which cannot be resolved through mediation as provided in the procedures which follow in Section 26.0908(e).
- (d) Adopt, by two-thirds vote of its members, bylaws governing the conduct of its meetings and activities, the establishment of subcommittees, and such other rules as may be necessary for the performance of its functions; provided, that such bylaws shall specify that a quorum shall at all times consist of a majority of its authorized membership and that any amendments to the bylaws shall require an affirmative vote of two-thirds of its authorized membership.
- (e) Render a written report of its activities to the Mayor and Council annually. Such report shall include:
  - (1) Case histories of conciliation or mediation settlements made under this Division, the disclosure of which, in the judgment of the Commission, will further the objectives of this Division but such reports of case histories shall not include names or other facts which might clearly identify the parties involved without the prior written consent of the parties first obtained.
  - (2) Recommendations to the Mayor and Council for development of policies and procedures which will further the objectives of this Division.
  - (3) Recommendations to the Mayor and Council of additional legislation deemed by the Commission to be necessary to carry out the purposes of this Division.
  - (4) Instances of discrimination by any City agency, board or officer which the Commission determines to have occurred subsequent to the issuance of its prior report.

- (5) Recommendations of actions to be taken by the City Council, City Manager or independent Department Director for the purposes of furthering the objectives of this Division.
- (f) Maintain records and serve as the source of accurate and reliable data on practices, activities, and other problems which are the subject of this division.
- (g) Meet not less than once a month.
- (h) In addition to the other powers and duties set forth in this Division, the Commission shall have the power and duty to:
  - (1) Prepare and disseminate educational and informational material relating to prejudice and discrimination and recommended ways and means of eliminating such prejudice and discrimination.
  - (2) Furnish cooperation, information, guidance and technical assistance to other public agencies and private persons, organizations and institutions engaged in activities and programs intended to eliminate prejudice and discrimination.
  - (3) Consult and maintain contact with other public agencies and representatives of employers, labor unions, property owners associations, professional associations, national origin groups, community organizations concerned with interracial, interreligious and inter-cultural understanding, social welfare organizations, and such other private organizations and institutions as the Commission shall deem advisable to further objectives of this Division.
  - (4) Advise and make written recommendations to the Mayor, City Council, City Manager, independent Department Directors and independent City Corporations concerning the development and implementation of programs and practices for the purpose of furthering the objectives of this Division. If necessary, the Commission and an agency, board, or officer which the Commission is assisting shall submit timely reports of progress in establishing and implementing such programs and practices as are from time to time requested by the Mayor or Council through the Executive Director of the Commission. The Commission shall not have jurisdiction over matters within the authority of the Civil Service Commission or the Citizens Equal Opportunity Commission including, but not limited to, City employee discrimination complaints or minority contracting practices; provided,

however, that on a case by case basis and subject to specific direction from the City Council as expressed by a duly adopted formal resolution of the Council and as may be otherwise permitted by law, the Commission may be designated to make investigations of allegations of unfair or unlawful practices arising out of the proceedings of the Civil Service Commission to the extent that such investigations are consistent with Section 128 of the City Charter.

- (5) Investigate, and with the assent of the concerned parties, conciliate or mediate all incidents of discrimination within the scope of this Division to the extent such functions are not within the responsibilities of the California Fair Employment Practices Commission or any federal, county, state, City or other established agency, and make specific and detailed recommendations to the interested parties as to the method of eliminating such discrimination.
- (6) Prepare, encourage and coordinate programs based on established laws, regulations, policies, or goals to eliminate or reduce existing inequalities and disadvantages in the community resulting from past discriminatory practices.
- (7) Hold public hearings on community-wide problems which may result in discrimination because of race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition or place of birth.
- (8) Refer for appropriate legal action any matters not resolved through conciliation or mediation to the appropriate prosecutorial or regulatory entity pursuant to Section 26.0908.
- (9) Request through the City Manager or independent department directors information, services, facilities or any other assistance for the purpose of furthering the objectives of this Division.
- (10) Appoint subcommittees as may be required to address specific human relations problems. Such subcommittees will be composed of persons who are members of the Commission.
- (11) Support and participate in activities which bring together various factions and viewpoints on emerging issues in a way that will help the community to resolve the issues which arise with change.

*(Amended 9-30-1996 by O-18344 N.S.)*

**§26.0907 Cooperation with Other Communities and Agencies**

The Commission shall consult with and maintain contact with human relations agencies, both public and private and shall cooperate in the development and implementation of inter- and intra- community relations programs to further the objectives of this Division.

*("Cooperation with Other Communities and Agencies" added 3-18-1991 by O-17614 N.S.)*

**§26.0908 Complaint Resolution Process**

- (a) Upon the filing with the Commission of a complaint by any individual or entity that an unfair or unlawful practice of discrimination as defined in Section 26.0904 of this Division has occurred, the Executive Director, following consultation with the Commission Chair, shall undertake an investigation of the complaint. If, upon such investigation, it is found that the individual or entity charged in the complaint has not or is not engaged in any unfair or unlawful practice, such finding shall be set forth in writing and shall be filed with the Commission and the complaint shall be dismissed. It shall be the responsibility of the Commission to notify, in writing, all parties to the complaint of such dismissal. If, upon such investigation, it is found that reasonable cause exists for the allegations made in the complaint, the Chair of the Commission, pursuant to regulations duly adopted by the Commission, shall designate one or more of the Commissioners to endeavor to eliminate the alleged unfair or unlawful practice charged in the complaint by means of conciliation or mediation. In furtherance of such conciliation and mediation, the Commission may make specific recommendations to the parties, but such recommendations shall not constitute a decision, finding of fact, judgment or order of the Commission, nor be binding upon or admissible in any court in any subsequent proceedings brought under subsection (e) of this section to the extent allowed by law.
- (b) In cases where a settlement is reached, all evidence and information given to or obtained by the Commission in any proceedings under the provisions of subsection (a) of this section will be kept in confidence, to the extent allowed by law.
- (c) A party to this process retains all legal or constitutional privileges and defenses, to the extent allowed by law.
- (d) If the party committing an alleged unfair or unlawful practice complies with the recommendations of the Commission, the matter shall be deemed settled



and terminated and no other proceedings shall be had or taken by the Commission.

- (e) If the Commission is unable to resolve an alleged unfair or unlawful practice, it may refer the aggrieved person or matter in dispute to the City Attorney or other appropriate prosecutorial or regulatory entity for appropriate legal action to resolve such alleged unfair or unlawful practice. The Commission shall, at the time of referring said matter, transmit to the City Attorney or other appropriate prosecutorial or regulatory entity a copy of its findings and recommendations in the case. The City Attorney or other appropriate prosecutorial or regulatory entity, in its discretion, may proceed to secure from an appropriate court an order enjoining the defendant(s) from continuing or repeating such practice. If the Commission, prior to commencement of the court proceedings, as a result of its effort finds that the alleged violator no longer engages in the alleged unlawful practice described in the findings and complies with the recommendations of the Commission, no such proceedings shall be instituted.

*(“Complaint Resolution Process” added 3–18–1991 by O–17614 N.S.)*

#### **§26.0909 Individual Remedies**

Nothing in this Division or the provisions thereof shall be construed as granting or denying to an aggrieved individual or entity any additional right to pursue a civil action against any person, firm, partnership, association, corporation or any agency, board or officer of the City, or any action allowed under state or federal law.

*(“Individual Remedies” added 3–18–1991 by O–17614 N.S.)*

#### **§26.0910 Meetings**

- (a) All meetings of the Commission shall be public consistent with the Ralph M. Brown Act.
- (b) A Commissioner who misses three (3) consecutive meetings or one-third of all the regular scheduled meetings within the City’s fiscal year shall be automatically removed from the Commission.
- (c) A quorum shall consist of a majority of the authorized membership of the Commission.

- (d) When there are twelve (12) or fewer Commission members in attendance, but at least a quorum, seven (7) votes shall be required for official action. When thirteen (13) or more members are in attendance, action may be taken by a simple majority.

*(“Meetings” added 3-18-1991 by O-17614 N.S.)*

**§26.0911 Severability**

If any part or provision of this Division or the application thereof to any person or circumstance is held invalid, the remainder of this Division, including the application of such part or provision to other persons or circumstances, shall not be affected

thereby and shall continue in full force and effect. To this end, the provisions of this Division are severable.

*("Severability" added 3-18-1991 by O-17614 N.S.)*

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE:** ~~Struck-Out~~

**NEW LANGUAGE:** Double Underline

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 6, DIVISION 9 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 26.0901, 26.0902, 26.0904, 26.0905, 26.0906, 26.0907, 26.0908, 26.0909, AND 26.0910, RELATING TO THE HUMAN RELATIONS COMMISSION.

**Article 6: Board and Commissions**

**Division 9: Human Relations Commission**

**§26.0901 Findings**

The population of the City of San Diego is composed of people of various racial, religious, and ethnic groups. In this City, the practice of discrimination on the grounds of race, religion, color, national origin or ancestry, age, gender, sexual orientation, disability, medical condition, ~~or~~ place of birth, citizenship, marital status, military service, or any other characteristic protected by applicable federal, state, or local laws, and the exploitation of prejudice related thereto adversely affects members of the above groups.

Such discriminatory practices are inimical to the public welfare and good order in that they: (1) impede social and economic progress for the entire citizenry by preventing members of the above groups from achieving full development of their individual potentialities and from contributing fully to the cultural and business life of the community; (2) constantly frustrate, degrade, and embitter members of

the above groups, thereby diminishing their initiative and interest in the community; and (3) tend to create intergroup hostilities and anti-social behavior.

The products of discrimination accumulate continuously, with the result that the social, economic, and educational gaps between those suffering discrimination and the rest of the community constantly widen. As a result, mere prohibition of present and future discrimination, while essential, will not reduce the inequalities and disadvantages which a history of discrimination has produced. Accordingly, remedial action must be initiated, encouraged, and coordinated, particularly educational programs to bring groups together to close gaps.

Experiences of other urban centers throughout the nation have proven the need for and the effectiveness of commissions empowered to study community, race, and human relations problems, to work with interested citizens to develop programs to ameliorate tensions and reduce cultural, social, and economic disadvantages, and to encourage and coordinate implementation of such programs consistent with the needs and rights of members of all groups in the community.

**§26.0902 Purpose and Intent**

It is the purpose and intent of this Division to create a Human Relations Commission for the City of San Diego which shall consult with and advise the Mayor, City Council, and City Manager on the rights of every inhabitant of the City of San Diego to equal economic, political, and educational opportunity, to equal accommodations in all business establishments in the City, and to equal service and protection by public agencies. The Commission shall give effect to such rights to eliminate prejudice and discrimination because of race, religion, color, national origin or ancestry, age, gender, sexual orientation, disability,

medical condition or ~~place of birth,~~ citizenship, marital status, military service,  
or any other characteristic protected by applicable federal, state, or local laws, and  
shall advise the Mayor, City Council, ~~and the~~ City Manager on methods to inform  
the inhabitants of ~~the~~ City of San Diego of developments in human relations.  
The Commission shall also provide expert advice and assistance to the Mayor,  
City Council, and City Manager in order that all officers, agencies, boards,  
departments, and employees of ~~the~~ City of San Diego may take ameliorative  
steps to enhance peace and good order, and provide equal opportunity for and  
good will toward all people. Further, the Commission may recommend use of  
mediation and/or conciliation processes to attempt to eliminate alleged unfair or  
unlawful discriminatory practices as defined herein.

**§26.0904 Definitions**

As used in this Division:

- (a) through (e) [No change in text.]
- (f) “Unfair” shall mean not fair or conforming to fundamental notions of justice, honesty, ethics, or the like.
- (g) “Unlawful practice” shall mean any policy or practice which constitutes illegal discrimination as defined in federal, state, or local laws.

**§26.0905 Human Relations Commission Established**

- (a) There is hereby created a Human Relations Commission consisting of ~~fifteen (15)~~ seventeen members who shall serve without compensation. All members of the Commission shall be residents of the City of San Diego unless otherwise waived by the Council pursuant to Council Policy 000–13. All prospective members shall have demonstrated an expertise in

human relations work and a commitment to fostering better human relations in ~~T~~the City of San Diego.

- (b) The Commissioners shall be appointed by the Mayor and confirmed by the City Council, subject to the following procedure:
  - (1) The Mayor shall appoint ~~seven (7)~~ eight members;
  - (2) The Mayor shall appoint the remaining ~~eight (8)~~ nine members, one each from a list of up to three ~~(3)~~ nominations submitted by each Councilmember.
- (c) ~~Of the initial fifteen (15) Commissioners appointed, eight (8) shall serve a term of four (4) years and seven (7) shall serve a term of two (2) years. Thereafter, members shall be appointed for a term of office of four (4) years, except that all Commissioners shall be appointed for a term of office of four years. The seventeen Commissioners will serve staggered terms with eight terms ending in even years and nine terms ending in odd years. All vacancies occurring during a term shall be filled for the remainder of the unexpired term.~~
- (d) Commissioners may serve a maximum of two ~~(2)~~ full four ~~(4)~~ year terms, for a maximum of eight ~~(8)~~ consecutive years, with a four ~~(4)~~ year interval ~~between terms~~ before reappointment in accordance with Section 43 of the City Charter.
- (e) The Commissioners shall elect a ~~e~~Chair from among their members. The Chair shall serve at the pleasure of the members but for no longer than ~~two~~ three years.

- (f) The Commissioners may be removed for cause by a vote of a majority of the members of the City Council.
- (g) The position of Executive Director of the Commission is hereby established and shall be appointed by the City Manager. The Executive Director shall be a management assistant to the City Manager. The City Manager may seek counsel and advice from the Executive Director and the Commission's Chair about matters within the jurisdiction of the Commission.
- (h) Subject to its unfettered legislative discretion, the Council will use good faith efforts to ensure that:
  - (1) Sufficient funds for an Executive Director and necessary staff are provided to assist the Commission in carrying out its duties and responsibilities; and
  - (2) The Commission reflects the cultural diversity of the ~~community including ethnicity, gender, age, sexual orientation and disability~~ communities of the City of San Diego.

**§26.0906 Powers and Duties**

The Commission shall:

- (a) Conduct programs designed to bring groups together to close gaps resulting from past discriminatory practices and to proactively address ~~pro-actively~~ current or ongoing intergroup tensions.
- (b) Mediate disagreements among individuals, groups, and organizations which result from discriminatory practices within the scope of this Division.



- (c) Process complaints ~~which cannot be resolved through mediation as provided in~~ using the procedures ~~which follow~~ in Section 26.0908(e) or make additional, appropriate referrals.
- (d) Adopt, by two-thirds vote of its members, bylaws governing the conduct of its meetings and activities, the establishment of subcommittees, and such other rules as may be necessary for the performance of its functions; provided, that such bylaws shall specify that a quorum shall at all times consist of a majority of its authorized membership and that any amendments to the bylaws shall require an affirmative vote of two-thirds of its authorized membership.
- ~~(e) — Render a written report of its activities to the Mayor and Council annually. Such report shall include:~~
  - ~~(1) — Case histories of conciliation or mediation settlements made under this Division, the disclosure of which, in the judgment of the Commission, will further the objectives of this Division but such reports of case histories shall not include names or other facts which might clearly identify the parties involved without the prior written consent of the parties first obtained.~~
  - ~~(2) — Recommendations to the Mayor and Council for development of policies and procedures which will further the objectives of this Division.~~
  - ~~(3) — Recommendations to the Mayor and Council of additional legislation deemed by the Commission to be necessary to carry out the purposes of this Division.~~

~~(4) — Instances of discrimination by any City agency, board or officer which the Commission determines to have occurred subsequent to the issuance of its prior report.~~

~~(5) — Recommendations of actions to be taken by the City Council, City Manager or independent Department Director for the purposes of furthering the objectives of this Division.~~

(~~fe~~) Maintain records and serve as the source of accurate and reliable data on practices, activities, and other problems which are the subject of this ~~d~~Division.

~~(g) — Meet not less than once a month.~~

(f) Render a written report of its activities to the Mayor and the City Council annually. Such report shall include summaries of recommendations to the Mayor and the City Council for development of policies and procedures, additional legislation deemed by the Commission to be necessary, presentations by citizens and organizations, and recommended actions to be taken by the Mayor, the City Council, or independent Department Directors, all of which will further the objectives of this Division.

(~~hg~~) In addition to the other powers and duties set forth in this Division, the Commission shall have the power and duty to:

(1) Prepare and disseminate educational and informational material relating to prejudice and discrimination and recommended ways and means of eliminating such prejudice and discrimination.

(2) Furnish cooperation, information, guidance, and technical assistance to other public agencies and private persons,

organizations, and institutions engaged in activities and programs intended to eliminate prejudice and discrimination.

- (3) Consult and maintain contact with other public agencies and representatives of employers, labor unions, property owners associations, professional associations, national origin groups, community organizations concerned with interracial, interreligious, and ~~inter-cultural~~ intercultural understanding, social welfare organizations, and such other private organizations and institutions as the Commission shall deem advisable to further objectives of this Division.
- (4) Advise and make written recommendations to the Mayor, City Council, City Manager, independent Department Directors, and independent City Corporations concerning the development and implementation of programs and practices for the purpose of furthering the objectives of this Division. If necessary, the Commission and an agency, board, or officer which the Commission is assisting shall submit timely reports of progress in establishing and implementing such programs and practices as are from time to time requested by the Mayor or Council through the Executive Director of the Commission. The Commission shall not have jurisdiction over matters within the authority of the Civil Service Commission or the Citizens Equal Opportunity Commission including, but not limited to, City employee discrimination complaints or minority contracting practices;

provided, however, that on a case by case basis and subject to specific direction from the City Council as expressed by a duly adopted ~~formal~~ resolution of the Council and as may be otherwise permitted by law, the Commission may be designated to make investigations of allegations of unfair or unlawful practices arising out of the proceedings of the Civil Service Commission to the extent that such investigations are consistent with Section 128 of the City Charter.

- (5) Investigate, and with the assent of the concerned parties, conciliate or mediate all incidents of discrimination within the scope of this Division to the extent such functions are not within the responsibilities of the California Fair Employment Practices Commission or any federal, county, state, City, or other established agency, and make specific and detailed recommendations to the interested parties as to the method of eliminating such discrimination.
- (6) Prepare, encourage, and coordinate programs based on established laws, regulations, policies, or goals to eliminate or reduce existing inequalities and disadvantages in the community resulting from past discriminatory practices.
- (7) Hold public ~~hearings~~ meetings on community-wide problems which may result in discrimination because of race, religion, color, national origin or ancestry, age, gender, sexual orientation, disability, medical condition ~~or~~, place of birth, citizenship, marital

status, military service, or any other characteristic protected by applicable federal, state, or local laws.

- (8) Refer for appropriate legal action any matters not resolved through conciliation or mediation to the appropriate prosecutorial or regulatory entity pursuant to Section 26.0908.
- (9) Request through the Mayor, City Manager, or independent ~~d~~Department ~~d~~Directors information, services, facilities, or any other assistance for the purpose of furthering the objectives of this Division.
- (10) through (11) [No change in text.]

**§26.0907 Cooperation with Other Communities and Agencies**

The Commission shall consult with and maintain contact with human relations agencies, both public and private, and shall cooperate in the development and implementation of inter- and intra- community, county, state, and federal relations programs to further the objectives of this Division.

**§26.0908 Complaint Resolution Process**

- (a) ~~Upon the filing with the Commission of a complaint by any individual or entity~~ filing a complaint with the Commission that an unfair or unlawful practice of discrimination, as defined in Section 26.0904, ~~of this Division~~ has occurred, the Executive Director, or his or her designee, following consultation with the Commission Chair, shall undertake an investigation of the complaint. If, upon such investigation, it is found that the individual or entity charged in the complaint has not or is not engaged in any unfair or unlawful practice, such finding shall be set forth in writing and shall be

filed with the Commission and the complaint shall be dismissed. It shall be the responsibility of the ~~Commission~~Executive Director or Commission Chair to notify, in writing, all parties to the complaint of such dismissal. If, upon such investigation, it is found that reasonable cause exists for the allegations made in the complaint, the Chair of the Commission, pursuant to regulations duly adopted by the Commission, shall designate at least two individuals, that may be one or more of the Commissioners, including the Chair, or other qualified individual trained in conciliation or mediation, to endeavor to eliminate the alleged unfair or unlawful practice charged in the complaint by means of conciliation or mediation. In furtherance of such conciliation ~~and~~ or mediation, the Commission may make specific recommendations to the parties, but such recommendations shall not constitute a decision, finding of fact, judgment, or order of the Commission, nor shall they be binding upon or admissible in any subsequent proceeding in any court in any subsequent proceedings brought under subsection (e) of this section to the extent unless allowed by law.

- (b) In cases where a settlement is reached, all evidence and information given to or obtained by the Commission in any proceedings under the provisions of subsection (a) ~~of this section~~ will be kept in confidence, to the extent allowed by law.
- (c) A party to this process retains all legal or constitutional privileges and defenses, to the extent allowed by law.

- (d) If the party committing an alleged unfair or unlawful practice complies with the recommendations of the Commission, the matter shall be deemed settled and terminated, and no other proceedings shall be had or taken by the Commission with regard to that specific complaint.
- (e) If the Commission is unable to resolve an alleged unfair or unlawful practice, it may refer the aggrieved person or matter in dispute to the City Attorney or other appropriate prosecutorial or regulatory entity for appropriate legal action ~~to resolve such alleged unfair or unlawful practice.~~ The Commission shall, at the time of referring said matter, transmit to the City Attorney or other appropriate prosecutorial or regulatory entity a copy of its investigation, evidence, findings, and recommendations in the case. The City Attorney or other appropriate prosecutorial or regulatory entity, in its discretion, may prosecute or proceed to secure from an appropriate court an order enjoining the defendant(s) from continuing or repeating such practice. If the Commission, prior to commencement of the court proceedings, as a result of its effort finds that the alleged violator no longer engages in the alleged unlawful practice described in the findings and complies with the recommendations of the Commission, the Commission may recommend to the City Attorney or other appropriate prosecutorial or regulatory entity that no such court proceedings shall be instituted.

**§26.0909 Individual Remedies**

Nothing in this Division ~~or the provisions thereof~~ shall be construed as granting or denying to an aggrieved individual or entity any additional right to pursue a civil action against any person, firm, partnership, association, corporation, or any agency, board, or officer of the City, or any action allowed under state or federal law.

**§26.0910 Meetings**

- (a) All meetings of the Commission shall be public ~~consistent~~ and shall comply with the Ralph M. Brown Act.
- ~~(b) A Commissioner who misses three (3) consecutive meetings or one-third of all the regular scheduled meetings within the City's fiscal year shall be automatically removed from the Commission.~~
- (b) The Commission shall meet not less than once a month.
- (c) A quorum shall consist of a majority of the authorized membership of the Commission.
- (d) When there are ~~twelve (12)~~ fourteen or fewer Commission members in attendance, but at least a quorum, ~~seven (7)~~ eight votes shall be required for official action. When ~~thirteen (13)~~ fifteen or more members are in attendance, action may be taken by a simple majority.
- (e) A Commissioner who misses, without excuse, three consecutive meetings or one-third of all of the regular scheduled meetings within the City's fiscal year shall be automatically removed from the Commission.



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11/06/2012  
Or.Dept:PSE  
Doc. No. 439441

DRAFT

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 6,  
DIVISION 9 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTIONS 26.0901, 26.0902, 26.0904, 26.0905,  
26.0906, 26.0907, 26.0908, 26.0909, AND 26.0910, RELATING  
TO THE HUMAN RELATIONS COMMISSION.

WHEREAS, the Human Relations Commission (Commission) is established to consult with and advise the Mayor and the City Council on the rights of every inhabitant of the City of San Diego to equal economic, political, and educational opportunity, to equal accommodations in all business establishments in the City, and to equal service and protection by public agencies; and

WHEREAS, the Commission is tasked with receiving complaints and recommending the use of mediation or conciliation processes to attempt to eliminate alleged prejudice and discrimination; and

WHEREAS, the Municipal Code currently lists protected characteristics that are the grounds of discrimination such as race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition, and place of birth; and

WHEREAS, the City seeks to add to the list additional characteristics such as national origin, citizenship, marital status, military service, or any other characteristic protected by applicable federal, state, or local laws, in order to correspond with current laws; and

WHEREAS, the Municipal Code currently provides that the Commission shall consist of fifteen members appointed by the Mayor and confirmed by the City Council as follows: seven members appointed directly by the Mayor and eight members, one each from a list of up to three nominations submitted by each Councilmember; and

WHEREAS, the City seeks to increase the total number of Commissioners to seventeen by increasing from seven to eight the number of appointments made directly by the Mayor and by increasing from eight to nine the number of appointments made from the list of up to three nominations submitted by each Councilmember because the Council is expanding from eight to nine members in order to maintain a total odd number of Commissioners for vote counts; and

WHEREAS, the Municipal Code currently provides that of the initial fifteen Commissioners appointed, eight shall serve a term of four years, seven shall serve a term of two years, and thereafter, members shall be appointed for a term of four years; and

WHEREAS, the City seeks to replace the initial appointment timeframes that are outdated while maintaining the staggered terms of office for the Commissioners such that all members shall be appointed for a term of office of four years with eight terms ending in even years and nine terms ending in odd years; and

WHEREAS, the Municipal Code currently provides that the Chair of the Commission shall serve at the pleasure of the members but for no longer than two years; and

WHEREAS, the City seeks to increase the Chair's term limit from two years to three years for consistency, stability, and institutional knowledge; and

WHEREAS, the Municipal Code currently provides that one of the duties of the Commission is to render a written report to the Mayor and the City Council annually; and

WHEREAS, the City seeks to consolidate and clarify the substance of the reports and to incorporate existing practices that have been in use for some time; and

WHEREAS, the Municipal Code currently provides that a Commissioner who misses three consecutive meetings or one-third of all of the regular scheduled meetings within the fiscal year shall be automatically removed from the Commission; and

WHEREAS, the City seeks to add “without excuse” to describe the missed meetings because the City seeks to accommodate the lives and other commitments of the volunteer Commissioners; and

WHEREAS, the City also seeks to address the language and grammatical inconsistencies within the Municipal Code sections pertaining to the Commission; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 6, Division 9 of the San Diego Municipal Code is amended by amending sections 26.0901, 26.0902, 26.0904, 26.0905, 26.0906, 26.0907, 26.0908, 26.0909, and 26.0910 to read as follows:

**Article 6: Board and Commissions**

**Division 9: Human Relations Commission**

**§26.0901 Findings**

The population of the City of San Diego is composed of people of various racial, religious, and ethnic groups. In this City, the practice of discrimination on the grounds of race, religion, color, national origin or ancestry, age, gender, sexual orientation, disability, medical condition, place of birth, citizenship, marital status, military service, or any other characteristic protected by applicable federal, state, or local laws, and the exploitation of prejudice related thereto adversely affects members of the above groups.

Such discriminatory practices are inimical to the public welfare and good order in that they: (1) impede social and economic progress for the entire citizenry by preventing members of the above groups from achieving full development of their individual potentialities and from contributing fully to the cultural and business life of the community; (2) constantly frustrate, degrade, and embitter members of

the above groups, thereby diminishing their initiative and interest in the community; and (3) tend to create intergroup hostilities and anti-social behavior.

The products of discrimination accumulate continuously, with the result that the social, economic, and educational gaps between those suffering discrimination and the rest of the community constantly widen. As a result, mere prohibition of present and future discrimination, while essential, will not reduce the inequalities and disadvantages which a history of discrimination has produced. Accordingly, remedial action must be initiated, encouraged, and coordinated, particularly educational programs to bring groups together to close gaps.

Experiences of other urban centers throughout the nation have proven the need for and the effectiveness of commissions empowered to study community, race, and human relations problems, to work with interested citizens to develop programs to ameliorate tensions and reduce cultural, social, and economic disadvantages, and to encourage and coordinate implementation of such programs consistent with the needs and rights of members of all groups in the community.

**§26.0902 Purpose and Intent**

It is the purpose and intent of this Division to create a Human Relations Commission for the City of San Diego which shall consult with and advise the Mayor, City Council, and City Manager on the rights of every inhabitant of the City of San Diego to equal economic, political, and educational opportunity, to equal accommodations in all business establishments in the City, and to equal service and protection by public agencies. The Commission shall give effect to such rights to eliminate prejudice and discrimination because of race, religion, color, national origin or ancestry, age, gender, sexual orientation, disability,

medical condition, place of birth, citizenship, marital status, military service, or any other characteristic protected by applicable federal, state, or local laws, and shall advise the Mayor, City Council, and City Manager on methods to inform the inhabitants of the City of San Diego of developments in human relations. The Commission shall also provide expert advice and assistance to the Mayor, City Council, and the City Manager in order that all officers, agencies, boards, departments, and employees of the City of San Diego may take ameliorative steps to enhance peace and good order, and provide equal opportunity for and good will toward all people. Further, the Commission may recommend use of mediation and/or conciliation processes to attempt to eliminate alleged unfair or unlawful discriminatory practices as defined herein.

**§26.0904 Definitions**

As used in this Division:

- (a) through (e) [No change in text.]
- (f) “Unfair” shall mean not fair or conforming to fundamental notions of justice, honesty, ethics, or the like.
- (g) “Unlawful practice” shall mean any policy or practice which constitutes illegal discrimination as defined in federal, state, or local laws.

**§26.0905 Human Relations Commission Established**

- (a) There is hereby created a Human Relations Commission consisting of seventeen members who shall serve without compensation. All members of the Commission shall be residents of the City of San Diego unless otherwise waived by the Council pursuant to Council Policy 000–13. All prospective members shall have demonstrated an expertise in human

relations work and a commitment to fostering better human relations in the City of San Diego.

- (b) The Commissioners shall be appointed by the Mayor and confirmed by the City Council, subject to the following procedure:
  - (1) The Mayor shall appoint eight members;
  - (2) The Mayor shall appoint the remaining nine members, one each from a list of up to three nominations submitted by each Councilmember.
- (c) Commissioners shall be appointed for a term of office of four years. The seventeen Commissioners will serve staggered terms with eight terms ending in even years and nine terms ending in odd years. All vacancies occurring during a term shall be filled for the remainder of the unexpired term.
- (d) Commissioners may serve a maximum of two full four year terms, for a maximum of eight consecutive years, with a four year interval before reappointment in accordance with Section 43 of the City Charter.
- (e) The Commissioners shall elect a Chair from among their members. The Chair shall serve at the pleasure of the members but for no longer than three years.
- (f) The Commissioners may be removed for cause by a vote of a majority of the members of the City Council.
- (g) The position of Executive Director of the Commission is hereby established and shall be appointed by the City Manager. The Executive Director shall be a management assistant to the City Manager. The City

Manager may seek counsel and advice from the Executive Director and the Commission's Chair about matters within the jurisdiction of the Commission.

(h) Subject to its unfettered legislative discretion, the Council will use good faith efforts to ensure that:

- (1) Sufficient funds for an Executive Director and necessary staff are provided to assist the Commission in carrying out its duties and responsibilities; and
- (2) The Commission reflects the cultural diversity of the communities of the City of San Diego.

**§26.0906 Powers and Duties**

The Commission shall:

- (a) Conduct programs designed to bring groups together to close gaps resulting from past discriminatory practices and to proactively address current or ongoing intergroup tensions.
- (b) Mediate disagreements among individuals, groups, and organizations which result from discriminatory practices within the scope of this Division.
- (c) Process complaints using the procedures in Section 26.0908(e) or make additional, appropriate referrals.
- (d) Adopt, by two-thirds vote of its members, bylaws governing the conduct of its meetings and activities, the establishment of subcommittees, and such other rules as may be necessary for the performance of its functions; provided, that such bylaws shall specify that a quorum shall at all times



consist of a majority of its authorized membership and that any amendments to the bylaws shall require an affirmative vote of two-thirds of its authorized membership.

- (e) Maintain records and serve as the source of accurate and reliable data on practices, activities, and other problems which are the subject of this Division.
- (f) Render a written report of its activities to the Mayor and the City Council annually. Such report shall include summaries of recommendations to the Mayor and the City Council for development of policies and procedures, additional legislation deemed by the Commission to be necessary, presentations by citizens and organizations, and recommended actions to be taken by the Mayor, the City Council, or independent Department Directors, all of which will further the objectives of this Division.
- (g) In addition to the other powers and duties set forth in this Division, the Commission shall have the power and duty to:
  - (1) Prepare and disseminate educational and informational material relating to prejudice and discrimination and recommended ways and means of eliminating such prejudice and discrimination.
  - (2) Furnish cooperation, information, guidance, and technical assistance to other public agencies and private persons, organizations, and institutions engaged in activities and programs intended to eliminate prejudice and discrimination.
  - (3) Consult and maintain contact with other public agencies and representatives of employers, labor unions, property owners

associations, professional associations, national origin groups, community organizations concerned with interracial, interreligious, and intercultural understanding, social welfare organizations, and such other private organizations and institutions as the Commission shall deem advisable to further objectives of this Division.

- (4) Advise and make written recommendations to the Mayor, City Council, City Manager, independent Department Directors, and independent City Corporations concerning the development and implementation of programs and practices for the purpose of furthering the objectives of this Division. If necessary, the Commission and an agency, board, or officer which the Commission is assisting shall submit timely reports of progress in establishing and implementing such programs and practices as are from time to time requested by the Mayor or Council through the Executive Director of the Commission. The Commission shall not have jurisdiction over matters within the authority of the Civil Service Commission or the Citizens Equal Opportunity Commission including, but not limited to, City employee discrimination complaints or minority contracting practices; provided, however, that on a case by case basis and subject to specific direction from the City Council as expressed by a duly adopted resolution of the Council and as may be otherwise permitted by law, the Commission may be designated to make

investigations of allegations of unfair or unlawful practices arising out of the proceedings of the Civil Service Commission to the extent that such investigations are consistent with Section 128 of the City Charter.

- (5) Investigate, and with the assent of the concerned parties, conciliate or mediate all incidents of discrimination within the scope of this Division to the extent such functions are not within the responsibilities of the California Fair Employment Practices Commission or any federal, county, state, City, or other established agency, and make specific and detailed recommendations to the interested parties as to the method of eliminating such discrimination.
- (6) Prepare, encourage, and coordinate programs based on established laws, regulations, policies, or goals to eliminate or reduce existing inequalities and disadvantages in the community resulting from past discriminatory practices.
- (7) Hold public meetings on community-wide problems which may result in discrimination because of race, religion, color, national origin or ancestry, age, gender, sexual orientation, disability, medical condition, place of birth, citizenship, marital status, military service, or any other characteristic protected by applicable federal, state, or local laws.

- (8) Refer for appropriate legal action any matters not resolved through conciliation or mediation to the appropriate prosecutorial or regulatory entity pursuant to Section 26.0908.
- (9) Request through the Mayor, City Manager, or independent Department Directors information, services, facilities, or any other assistance for the purpose of furthering the objectives of this Division.
- (10) through (11) [No change in text.]

**§26.0907 Cooperation with Other Communities and Agencies**

The Commission shall consult with and maintain contact with human relations agencies, both public and private, and shall cooperate in the development and implementation of inter- and intra- community, county, state, and federal relations programs to further the objectives of this Division.

**§26.0908 Complaint Resolution Process**

- (a) Upon any individual or entity filing a complaint with the Commission that an unfair or unlawful practice of discrimination, as defined in Section 26.0904, has occurred, the Executive Director, or his or her designee, following consultation with the Commission Chair, shall undertake an investigation of the complaint. If, upon such investigation, it is found that the individual or entity charged in the complaint has not or is not engaged in any unfair or unlawful practice, such finding shall be set forth in writing and shall be filed with the Commission and the complaint shall be dismissed. It shall be the responsibility of the Executive Director or Commission Chair to notify, in writing, all parties to the complaint of such

dismissal. If, upon such investigation, it is found that reasonable cause exists for the allegations made in the complaint, the Chair of the Commission, pursuant to regulations duly adopted by the Commission, shall designate at least two individuals, that may be one or more of the Commissioners, including the Chair, or other qualified individual trained in conciliation or mediation, to endeavor to eliminate the alleged unfair or unlawful practice charged in the complaint by means of conciliation or mediation. In furtherance of such conciliation or mediation, the Commission may make specific recommendations to the parties, but such recommendations shall not constitute a decision, finding of fact, judgment, or order of the Commission, nor shall they be binding upon or admissible in any subsequent proceeding in any court unless allowed by law.

- (b) In cases where a settlement is reached, all evidence and information given to or obtained by the Commission in any proceedings under the provisions of subsection (a) will be kept in confidence, to the extent allowed by law.
- (c) A party to this process retains all legal or constitutional privileges and defenses, to the extent allowed by law.
- (d) If the party committing an alleged unfair or unlawful practice complies with the recommendations of the Commission, the matter shall be deemed settled and terminated, and no other proceedings shall be had or taken by the Commission with regard to that specific complaint.
- (e) If the Commission is unable to resolve an alleged unfair or unlawful practice, it may refer the aggrieved person or matter in dispute to the City Attorney or other appropriate prosecutorial or regulatory entity for

appropriate legal action. The Commission shall, at the time of referring said matter, transmit to the City Attorney or other appropriate prosecutorial or regulatory entity a copy of its investigation, evidence, findings, and recommendations in the case. The City Attorney or other appropriate prosecutorial or regulatory entity, in its discretion, may prosecute or proceed to secure from an appropriate court an order enjoining the defendant(s) from continuing or repeating such practice. If the Commission, prior to commencement of the court proceedings, as a result of its effort finds that the alleged violator no longer engages in the alleged unlawful practice described in the findings and complies with the recommendations of the Commission, the Commission may recommend to the City Attorney or other appropriate prosecutorial or regulatory entity that no such court proceedings be instituted.

**§26.0909 Individual Remedies**

Nothing in this Division shall be construed as granting or denying to an aggrieved individual or entity any additional right to pursue a civil action against any person, firm, partnership, association, corporation, or any agency, board, or officer of the City, or any action allowed under state or federal law.

**§26.0910 Meetings**

- (a) All meetings of the Commission shall be public and shall comply with the Ralph M. Brown Act.
- (b) The Commission shall meet not less than once a month.
- (c) A quorum shall consist of a majority of the authorized membership of the Commission.

- (d) When there are fourteen or fewer Commission members in attendance, but at least a quorum, eight votes shall be required for official action. When fifteen or more members are in attendance, action may be taken by a simple majority.
- (e) A Commissioner who misses, without excuse, three consecutive meetings or one-third of all of the regular scheduled meetings within the City's fiscal year shall be automatically removed from the Commission.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

\_\_\_\_\_  
Karen S. Li  
Deputy City Attorney

KSL:hm  
11/06/2012  
Or.Dept:PSE  
Doc. No. 439434

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of \_\_\_\_\_.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
BOB FILNER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
BOB FILNER, Mayor